
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

KENNETH CRISSUP,

Plaintiff,

versus

JONATHAN DAVIS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:06-CV-151

**MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff Kenneth Crissup, an inmate confined at the Ellis Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought this lawsuit against Jonathan Davis, Yusuf Hakeem, Nathaniel Quarterman, Timothy Lester, and the Texas Department of Criminal Justice.

The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends the defendants' motion for summary judgment be granted and plaintiff's complaint be dismissed with prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

After careful consideration, the court concludes Plaintiff's objections are without merit. Plaintiff has failed to produce evidence precluding summary judgment. Plaintiff's live pleadings are not sworn affidavits nor are they made under the penalty of perjury. Unsworn affidavits not made "under the penalty of perjury" are not competent summary judgment evidence. *Nissho-Iwai*

American Corp. v. Kline, 845 F.2d 1300, 1306 (5th Cir. 1988). Accordingly, the defendants' motion for summary judgment should be granted.

O R D E R

Accordingly, Plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. It is therefore

ORDERED that the defendants' motion for summary judgment is **GRANTED**. A final judgment shall be entered in accordance with this memorandum.

SIGNED at Beaumont, Texas, this 22nd day of September, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE